

106TH CONGRESS
1ST SESSION

S. 121

To amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. FEINGOLD introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Civil Rights Proce-
5 dures Protection Act of 1999”.

1 **SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS**
 2 **ACT OF 1964.**

3 Title VII of the Civil Rights Act of 1964 (42 U.S.C.
 4 2000e et seq.) is amended by adding at the end the follow-
 5 ing new section:

6 **“SEC. 719. EXCLUSIVITY OF POWERS AND PROCEDURES.**

7 “Notwithstanding any Federal law (other than a Fed-
 8 eral law that expressly refers to this title) that would oth-
 9 erwise modify any of the powers and procedures expressly
 10 applicable to a right or claim arising under this title, such
 11 powers and procedures shall be the exclusive powers and
 12 procedures applicable to such right or such claim unless
 13 after such right or such claim arises the claimant volun-
 14 tarily enters into an agreement to enforce such right or
 15 resolve such claim through arbitration or another proce-
 16 dure.”.

17 **SEC. 3. AMENDMENT TO THE AGE DISCRIMINATION IN EM-**
 18 **PLOYMENT ACT OF 1967.**

19 The Age Discrimination in Employment Act of 1967
 20 (29 U.S.C. 621 et seq.) is amended—

21 (1) by redesignating sections 16 and 17 as sec-
 22 tions 17 and 18, respectively; and

23 (2) by inserting after section 15 the following
 24 new section 16:

1 **“SEC. 16. EXCLUSIVITY OF POWERS AND PROCEDURES.**

2 “Notwithstanding any Federal law (other than a Fed-
 3 eral law that expressly refers to this Act) that would other-
 4 wise modify any of the powers and procedures expressly
 5 applicable to a right or claim arising under this Act, such
 6 powers and procedures shall be the exclusive powers and
 7 procedures applicable to such right or such claim unless
 8 after such right or such claim arises the claimant volun-
 9 tarily enters into an agreement to enforce such right or
 10 resolve such claim through arbitration or another proce-
 11 dure.”.

12 **SEC. 4. AMENDMENT TO THE REHABILITATION ACT OF**
 13 **1973.**

14 Section 505 of the Rehabilitation Act of 1973 (29
 15 U.S.C. 794a) is amended by adding at the end the follow-
 16 ing new subsection:

17 “(c) Notwithstanding any Federal law (other than a
 18 Federal law that expressly refers to this title) that would
 19 otherwise modify any of the powers and procedures ex-
 20 pressly applicable to a right or claim arising under section
 21 501, such powers and procedures shall be the exclusive
 22 powers and procedures applicable to such right or such
 23 claim unless after such right or such claim arises the
 24 claimant voluntarily enters into an agreement to enforce
 25 such right or resolve such claim through arbitration or an-
 26 other procedure.”.

1 **SEC. 5. AMENDMENT TO THE AMERICANS WITH DISABIL-**
2 **ITIES ACT OF 1990.**

3 Section 107 of the Americans with Disabilities Act
4 of 1990 (42 U.S.C. 12117) is amended by adding at the
5 end the following new subsection:

6 “(c) Notwithstanding any Federal law (other than a
7 Federal law that expressly refers to this Act) that would
8 otherwise modify any of the powers and procedures ex-
9 pressly applicable to a right or claim based on a violation
10 described in subsection (a), such powers and procedures
11 shall be the exclusive powers and procedures applicable to
12 such right or such claim unless after such right or such
13 claim arises the claimant voluntarily enters into an agree-
14 ment to enforce such right or resolve such claim through
15 arbitration or another procedure.”.

16 **SEC. 6. AMENDMENT TO SECTION 1977 OF THE REVISED**
17 **STATUTES.**

18 Section 1977 of the Revised Statutes (42 U.S.C.
19 1981) is amended by adding at the end the following new
20 subsection:

21 “(d) Notwithstanding any Federal law (other than a
22 Federal law that expressly refers to this section) that
23 would otherwise modify any of the powers and procedures
24 expressly applicable to a right or claim concerning making
25 and enforcing a contract of employment under this sec-
26 tion, such powers and procedures shall be the exclusive

1 powers and procedures applicable to such right or such
 2 claim unless after such right or such claim arises the
 3 claimant voluntarily enters into an agreement to enforce
 4 such right or resolve such claim through arbitration or an-
 5 other procedure.”.

6 **SEC. 7. AMENDMENT TO THE EQUAL PAY REQUIREMENT**
 7 **UNDER THE FAIR LABOR STANDARDS ACT OF**
 8 **1938.**

9 Section 6(d) of the Fair Labor Standards Act of
 10 1938 (29 U.S.C. 206(d)) is amended by adding at the end
 11 the following new paragraph:

12 “(5) Notwithstanding any Federal law (other than a
 13 Federal law that expressly refers to this Act) that would
 14 otherwise modify any of the powers and procedures ex-
 15 pressly applicable to a right or claim arising under this
 16 subsection, such powers and procedures shall be the exclu-
 17 sive powers and procedures applicable to such right or
 18 such claim unless after such right or such claim arises
 19 the claimant voluntarily enters into an agreement to en-
 20 force such right or resolve such claim through arbitration
 21 or another procedure.”.

22 **SEC. 8. AMENDMENT TO THE FAMILY AND MEDICAL LEAVE**
 23 **ACT OF 1993.**

24 Title IV of the Family and Medical Leave Act of
 25 1993 (29 U.S.C. 2651 et seq.) is amended—

1 (1) by redesignating section 405 as section 406;

2 and

3 (2) by inserting after section 404 the following

4 new section:

5 **“SEC. 405. EXCLUSIVITY OF REMEDIES.**

6 “Notwithstanding any Federal law (other than a Fed-
 7 eral law that expressly refers to this Act or a provision
 8 of subchapter V of chapter 63 of title 5, United States
 9 Code) that would modify any of the powers and procedures
 10 expressly applicable to a right or claim arising under this
 11 Act or under such subchapter such powers and procedures
 12 shall be the exclusive powers and procedures applicable to
 13 such right or such claim unless after such right or such
 14 claim arises the claimant voluntarily enters into an agree-
 15 ment to enforce such right or resolve such claim through
 16 arbitration or another procedure.”.

17 **SEC. 9. AMENDMENT TO TITLE 9, UNITED STATES CODE.**

18 Section 14 of title 9, United States Code, is
 19 amended—

20 (1) by inserting “(a)” before “This”; and

21 (2) by adding at the end the following new sub-
 22 section:

23 “(b) This chapter shall not apply with respect to a
 24 claim of unlawful discrimination in employment if such

1 claim arises from discrimination based on race, color, reli-
2 gion, sex, national origin, age, or disability.”.

3 **SEC. 10. APPLICATION OF AMENDMENTS.**

4 The amendments made by this Act shall apply with
5 respect to claims arising not later than the date of enact-
6 ment of this Act.

